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5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA  
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8 VIANA B. BAILEY,

9 Plaintiff,

10 vs.

11 WILLIAM OSCAR HARRIS, et al.,

12 Defendants.  
13

Case No. 2:15-cv-02279-JAD-GWF

**REPORT AND**  
**RECOMMENDATION**

14 This matter is before the Court on the parties failure to show cause why this matter should  
15 not be dismissed for lack of an actual dispute and lack of prosecution.

16 **BACKGROUND**

17 On December 2, 2015, Plaintiff Viana B. Bailey filed her Complaint (ECF No. 1) setting  
18 forth her demand for arbitration pursuant to arbitration agreements between Plaintiff and  
19 Defendants William Oscar Harris, Robert David Neal, and Ralph Taylor. On September 7, 2016,  
20 Plaintiff filed Notices of Acceptance of Offer of Judgment (ECF No. 7, 8, 9) and her Motion for  
21 Final Judgment based on the offers of judgment (ECF No. 10). On October 5, 2016, a Motion for  
22 Modification of Deemed Final Judgment (ECF No. 11) was filed purportedly on behalf of  
23 Defendant Ralph Taylor.

24 With the exception of Defendant Ralph Taylor, none of the Defendants have appeared in  
25 this matter. Mr. Kenneth Taylor is not a party to this action, but signed the Motion for  
26 Modification purportedly on behalf of Defendant Ralph Taylor. Mr. Kenneth Taylor signed the  
27 offer of judgment purportedly on behalf of Defendants William Oscar Harris, Robert David Neal,  
28 and Ralph Taylor. See ECF No. 10-2. Mr. Kenneth Taylor appeared for a status conference in this

1 action on November 22, 2016 and represented that he was the power of attorney for the  
2 Defendants. *See* ECF No. 16.

3 On January 13, 2017, the Court ordered the parties to show cause in writing by February  
4 10, 2017 why this matter should not be dismissed for lack of an actual dispute and lack of  
5 prosecution. The Court also instructed the parties to retain counsel who shall file an appearance  
6 according to the Local Rules of Practice or to file a notice with the Court that he or she will be  
7 appearing in this matter pro se. On January 31, 2017, Mr. Kenneth Taylor filed a notice (ECF No.  
8 18) purportedly on behalf of the Defendants informing the Court that he will file a response to the  
9 Court's order to show cause on June 12, 2017. Mr. Kenneth Taylor represents that he is appearing  
10 on behalf of the Defendants as their power of attorney. *See* ECF No. 18. On February 9, 2017,  
11 Plaintiff filed her response. ECF No. 20. She stated that there is no longer a controversy before  
12 the Court because of her acceptance of offers of judgment and requests that final judgment be  
13 entered.

## 14 **DISCUSSION**

### 15 **A. Failure to Retain Counsel**

16 Although an individual is entitled to represent himself or herself, non-attorneys are not  
17 permitted to represent, or appear in court on behalf of, any other person. *Handley v. Bank of Am.,*  
18 *N.A.*, 2010 WL 4607014, at \*1 (D. Nev. Nov. 4, 2010) (citing *Salman v. Newell*, 110 Nev. 1333,  
19 885 P.2d 607, 608 (Nev.1994)). *See also Jackson v. United Artists Theatre Circuit, Inc.*, 278  
20 F.R.D. 586, 596 (D. Nev. 2011). An individual does not have the right to be represented by an  
21 agent other than counsel in a court of law. *Handley*, 2010 WL 4607014, at \*1. NRS § 7.285  
22 prohibits the unauthorized practice of law. *Id.*

23 The Court instructed the parties to retain counsel or to file a notice with the Court that he  
24 or she will be appearing in this matter pro se by February 10, 2017. To date, Defendants have  
25 failed to do so. Mr. Kenneth Taylor is not an attorney and is not permitted to represent the  
26 Defendants in this action. Pursuant to NRS § 7.285, the Defendants cannot delegate representation  
27 to Mr. Kenneth Taylor. It does not appear that Defendants have filed anything in this matter on  
28 their own behalf. Defendants, therefore, failed to comply with this Court's order.

1           **B.       Lack of Case or Controversy**

2           Article III of the Constitution limits the jurisdiction of the federal courts to cases or  
3           controversies. *See* U.S. Const. art. III, § 2, cl. 1. “The doctrine of mootness, which is embedded  
4           in Article III’s case or controversy requirement, requires that an actual, ongoing controversy exist  
5           at all stages of federal court proceedings.” *Banks v. Robinson*, 2011 WL 5877542, at \*1 (D. Nev.  
6           Nov. 22, 2011) (quoting *Pitts v. Terrible Herbst, Inc.*, 653 F.3d 1081, 1086 (9th Cir. 2011)). A  
7           case becomes moot “when the issues presented are no longer ‘live’ or the parties lack a legally  
8           cognizable interest in the outcome” of the litigation. *Pitts*, 653 F.3d at 1086. Federal courts lack  
9           the constitutional authority to decide moot cases. *Id.* at 1087. If events subsequent to the filing of  
10          the case resolve the parties’ dispute, the court must dismiss the case as moot. *Id.*

11          The Court instructed the parties to show cause in writing why this matter should not be  
12          dismissed for lack of an actual dispute and lack of prosecution. The parties have failed to present  
13          a discernible issue in dispute or that the parties have a legally cognizable interest in the outcome of  
14          the litigation. Plaintiff’s claims are unclear and she even represents that there is no longer a  
15          controversy before the Court. Further, the Court reiterates that the documents filed by both parties  
16          appear to be created from the same source and are similarly formatted. The Defendants have not  
17          filed any documents on their own behalf. As such, there does not appear to be an actual dispute  
18          between real parties. Accordingly,

19                **IT IS HEREBY RECOMMENDED** that Plaintiff’s Complaint (ECF No. 1) be  
20          **dismissed.**

21                **IT IS FURTHER RECOMMENDED** that the Clerk of the Court be instructed to close  
22          this case and enter judgment accordingly.

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DATED this 31st day of May, 2017.

GEORGE FOLEY, JR.  
United States Magistrate Judge